

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

GILBERT G. LUNDSTROM,

Defendant.

**4:14CR3136**

**MEMORANDUM AND ORDER**

Following the filing of a superseding indictment in this case, the defendant filed a second motion for Bill of Particulars. ([Filing No. 68](#)). In all relevant respects, the arguments in the defendant's second motion are the same as those advanced on the first motion for Bill of Particulars. ([Filing No. 34](#)). And the government's response to the motion is, for the most part, the same.

The court has compared the initial and superseding indictments. The superseding indictment adds the following allegation:

In or around May 2009, LUNDSTROM made false and misleading statements during TierOne's Annual Meeting of Shareholders about TierOne's financial condition, including statements that were designed to mislead TierOne's shareholders, employees and the investing public about TierOne's available capital.

([Filing No. 58, at CM/ECF pp. 11-12, ¶ 36](#)). And as to this new allegation, “[t]he government has produced numerous documents . . . , including copies of the PowerPoint presentation used by Mr. Lundstrom in his presentation at the annual shareholder meeting and minutes from the annual shareholder meeting.” ([Filing No. 72, at CM/ECF p. 3](#)). In

all other respects, the superseding indictment alleges essentially no new substantive offenses.<sup>1</sup>

Under the circumstances presented, the court's reasoning denying the first Motion for Bill of Particulars, ([Filing No. 44](#)), applies with equal force to the current and pending motion.

For the reasons more fully discussed in the court's prior order, ([Filing No. 44](#)),

IT IS ORDERED:

- 1) The defendant's Motion for Bill of Particulars, ([Filing No. 68](#)), is denied.
- 2) To avoid a trial delay, any objection to this order shall be filed on or before October 5, 2015.

BY THE COURT:

*s/ Cheryl R. Zwart*  
United States Magistrate Judge

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<sup>1</sup> Both indictments allege that on September 2, 2009, a false statement, signed by Lundstrom, was submitted to federal regulators. The initial indictment alleged this act violated 18 U.S.C. § 1343 (wire fraud). ([Filing No. 1, at CM/ECF p. 20](#), count 7). The superseding indictment alleges this act as a "False Entr[y] in a Bank's Books, Reports, or Statements," in violation of 18 U.S.C. §§ 1005 and 2.